

**FILED**  
 UNITED STATES DISTRICT COURT  
 ALBUQUERQUE, NEW MEXICO

NOV 18 2014

UNITED STATES DISTRICT COURT **MATTHEW J. DYKMAN**  
 FOR THE NORTHERN DISTRICT OF NEW MEXICO **CLERK**

<p><b>IN RE:</b></p> <p><b>LIANNE BATEMAN</b></p> <p style="text-align: center;"><b>Creditor/Petitioner</b></p> <p><b>And</b></p> <p><b>AMERICAN EXPRESS</b></p> <p style="text-align: center;"><b>Debtor/Respondent</b></p>	<p style="text-align: center;"><b>DECLARATION</b> <b>RE: JUDGMENT</b></p>          <p style="text-align: right;">14mc 42 JH</p>
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**DECLARATION RE: JUDGMENT**

**NOTARIAL DECLARATION OF TRUTH**

Hereinafter known as *Declaration*

Comes now I, Gregory B. Molinar, a Notary Public in and for the State of New Mexico, hereafter known as the **Declarant**, with clean hands and good faith; for and on the public record; to declare the facts of this **Declarant**, affirmed and subscribed and executed under the penalties of perjury, are attested as true, correct, complete, and certain:

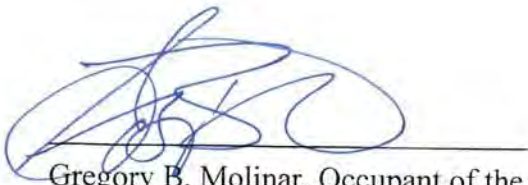
- 1) Affiant is competent to state to the matters set forth herein.
- 2) Affiant has personal knowledge of the facts stated herein.
- 3) All the facts stated herein are true, correct, and complete, admissible as evidence, and if called upon as a witness, Affiant will testify to their veracity.

PLAIN STATEMENT OF FACTS

- 4) I, Gregory B. Molinar, occupant of the office of Notary Public, in Bernalillo County, State of New Mexico, state that LIANNE BATEMAN asked me for the assistance of a Notary Public to act as a Notary Witness to the presentation of CONDITIONAL ACCEPTANCE And REQUEST REGARDING STATEMENT OF ACCOUNT (with 6 exhibits attached) dated September 22, 2014 attached hereto (see exhibit A1).
- 5) Pursuant to the request for assistance from LIANNE BATEMAN, Affiant did make presentment under Notary Seal in the following manner as evidenced by copy of U.S.P.S. Form 3811 attached herewith (see Exhibit B1):
  - a) On September 23, 2014, Affiant prepared and mailed various and sundry documents related to LIANNE BATEMAN's CONDITIONAL ACCEPTANCE And REQUEST REGARDING STATEMENT OF ACCOUNT (with 6 exhibits attached) (requiring a response within fourteen (14) days of receipt). The document package was sent via U.S.P.S. Certified Mail (#7008 1300 0000 0715 1632) as evidenced by the Notary's Affidavit of Mailing and Contents dated September 23, 2014 (see Exhibit B2). The document package was received by the Respondent, American Express on September 25, 2014 (see Exhibit B1). Said document package included the following:
    - (1) Certified Copy of CONDITIONAL ACCEPTANCE And REQUEST REGARDING STATEMENT OF ACCOUNT (with 6 exhibits attached) dated September 22, 2014 (see Exhibit A2);
- 6) Further, having not received a response from American Express in the prescribed time, Affiant certified the Non-Response (see Exhibit B3.)

VERIFICATION

The Undersigned Affiant, Gregory B. Molinar, certifies on Affiant's commercial liability that Affiant has read this Affidavit and issues the same with intent and understanding of purpose, and does solemnly swear, declare, and state that the statements, allegations, demands and contents contained herein are true, correct, and complete, not misleading, the truth, the whole truth and nothing but the truth to the best of my knowledge and belief.




Gregory B. Molinar, Occupant of the office of Notary Public  
Bernalillo County, State of New Mexico  
My commission expires on: May 28, 2017  
Mailing address:  
P.O. Box 35037  
Albuquerque, NM 87176-5037

#### ACKNOWLEDGEMENT

On this day, October 10, 2014, before me, Margaret H. Martinez, a Notary Public, did personally appear, Gregory B. Molinar, a Notary Public known to me to be the person whose name is subscribed above, and acknowledged that he executed the same for the purposes therein contained and did attest to the truth of this affidavit with his oath and autograph.

In witness hereof, I hereunto set my hand and official seal.



Notary Public

My Commission expires: May 28, 2017



NOTARY ACCEPTOR  
GREGORY B MOLINAR  
P.O.Box 35037  
Albuquerque, NM 87176-5037

LIANNE BATEMAN  
4175 BRECKENRIDGE CT  
ALPHARETTA, GA, 30005

American Express  
P.O. Box 981531  
El Paso, TX 79998-1531

USPS CERTIFIED MAIL # 7008 1300 0000 0715 1632

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**CONDITIONAL ACCEPTANCE**  
**And**  
**REQUEST REGARDING STATEMENT OF ACCOUNT**

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1. I am in receipt of your letter with a closing date of August 29, 2014 and we conditionally accept your bill for \$5,333.11 upon our receipt of a verified claim to NOTARY ACCEPTOR above, signed by an authorized representative from your company, submitted with the following proofs for consideration:
  - a. **Proof.** I agree to pay your claim of \$5,333.11 upon proof that the AMERICAN EXPRESS ACCOUNT ENDING IN 31001 is not satisfied and paid in full and reflecting a credit balance of \$45,221.42. To validate your claim you are required, within 14 days, to correct the following true statements; or rebut the following statements as being untrue; or agree, consent, and assent to the statements as fact, by remaining silent.

**STATEMENT OF FACTS**

- i. Pursuant to the attached screen shot of payments made on account, there exists no evidence or certification of dishonor to the tenders made and therefore the facts establish that the credits to the account were made and the balance is adjusted to a credit balance of \$45,221.42;
- ii. The account for the total sum of \$5,333.11 has been overpaid and there exists an overpayment of \$45,221.42;
- iii. That the following letters were sent to ZWICKER AND ASSOCIATES, representatives of AMERICAN EXPRESS (copies enclosed):
  1. Offer of Performance dated Wednesday June 11, 2014. No response received;
  2. Notice of Fault Opportunity to Cure dated Tuesday June 24, 2014. No response received;
  3. 2<sup>nd</sup> Notice of Fault Opportunity to Cure dated Monday July 28, 2014. No response received;
  4. Notice of Default dated Monday August 18, 2014.
- iv. That pursuant to the above noted letters, AMERICAN EXPRESS has already failed to substantiate its claim against LIANNE BATEMAN.



- b. **Verification.** Your claim must be verified to prove the validity, by presenting the alleged obligation under oath or notary seal, and signed by an officer of AMERICAN EXPRESS, under penalty of perjury as to accord with impartiality, honesty, and integrity.
2. This is an un rebutted statement of facts. Your response is not required, however if you fail to rebut within 14 days then it shall certify your consent, assent, and agreement to the statements as true, correct, complete, and not misleading. You further consent, assent, and agree to re-instate the above noted account and apply the credits as stipulated herewith.
3. Additionally all further communications to the NOTARY ACCEPTOR above shall be made only by an officer of AMERICAN EXPRESS, signed in ink, including the title and name of the individual verifying the data and affirming its accuracy. Please cease and desist all communications that are not signed in accordance with the provisions made herewith. Failure to do so constitute a prejudice to my rights and is damaging to me. Therefore, should we continue to receive unsigned communications from your company, it shall constitute your agreement to compensate us for the predetermined sum of \$10,000.00 per document.

By: *Lianne Bateman*, Administrator for  
LIANNE BATEMAN, ESTATE

#### JURAT/ACKNOWLEDGMENT

State of New Mexico     )

Bernalillo County     )

On this 22<sup>nd</sup> day of September, AD 2014 Lianne Bateman did personally appear before me, is known to me to be the person operating in the requisite capacity for the signature described herein, who executed the foregoing, acknowledged the contents thereof; and executed the same as her free act and deed. Subscribed and agreed to before the undersigned.



*Gregory B. Molinar*  
Notary Public  
My Commission Expires: May 28, 2017



**Request regarding Authentic Statement of Account**

(UCC Article 9 § 9-210)

I hereby certify and confirm this to be a true and correct statement of accounting as received by your office September 25, 2014

Payment Date	Status	Amount	Balance (-)=credit
1/28/2014	PAID	\$2261.00	\$0.00
1/30/2014	PAID	\$2883.30	(-) \$2,883.30
1/31/2014	PAID	\$2261.00	(-) \$5,144.30
2/04/2014	PAID	\$750.00	(-) \$5,894.30
2/05/2014	PAID	\$633.30	(-) \$6,527.60
2/13/2014	PAID	\$2,883.30	(-) \$9,410.90
3/14/2014	PAID	\$5,144.30	(-) \$14,555.20
6/14/2014	PAID	\$5,333.11	(-) \$19,888.31
8/30/2014	PAID	\$25,333.11	(-) \$45,221.42
9/16/2014	FINAL BALANCE		ACCOUNT CREDIT \$45,221.42

Please within 14 days approve or correct this statement. Any corrections hereto must be submitted in writing, under oath and under penalty of perjury, and full commercial liability (where not otherwise prohibited by law) to the NOTARY ACCEPTOR: GREGORY B MOLINAR at:

By: , Administrator for  
LIANNE BATEMAN, ESTATE


**JURAT/ACKNOWLEDGMENT**

State of New Mexico )

Bernalillo County )

On this 22<sup>nd</sup> day of September, AD 2014 Lianne Bateman did personally appear before me, is known to me to be the person operating in the requisite capacity for the signature described herein, who executed the foregoing, acknowledged the contents thereof; and executed the same as her free act and deed. Subscribed and agreed to before the undersigned.



  
Notary Public  
My Commission Expires: May 28, 2017

**AMERICAN EXPRESS**

Payments Profile Benefits

Log Out

Help

- View Online Statement
- Summary of Accounts
- Profile & Preferences
- Pay Bill

not displayed below.

by Computer. [Enroll Now](#)

Payment	Status	Confirmation Method	Bank Account	Amount
30, 2014	Paid	Not Applicable	Other XXXX5550	\$ 2533.11
14, 2014	Paid	Computer	XXXX5150	\$ 5333.11
10, 2014	Paid	Computer	XXXX5150	\$ 5144.30
13, 2014	Paid	Autopay	XXXX5550	\$ 2883.30
05, 2014	Paid	Computer	XXXX5550	\$ 633.30
04, 2014	Paid	Computer	XXXX5550	\$ 750.00
31, 2014	Paid	Computer	XXXX5550	\$ 2261.00
30, 2014	Paid	Computer	XXXX5550	\$ 2883.30
28, 2014	Paid	Computer	XXXX5550	\$ 2261.00
25, 2014	Paid	Computer	XXXX8855	\$ 1000.00
23, 2014	Paid	Computer	XXXX5550	\$ 138.55
23, 2014	Paid	Computer	XXXX5550	\$ 1745.34
19, 2014	Paid	Computer	XXXX5550	\$ 800.00
17, 2014	Paid	Computer	XXXX5550	\$ 770.76
16, 2014	Paid	Computer	XXXX8353	\$ 50.00
14, 2014	Paid	Computer	XXXX5550	\$ 1795.34
14, 2013	Paid	Computer	XXXX4502	\$ 500.00
22, 2013	Paid	Computer	XXXX8353	\$ 500.00

STATE OF NEW MEXICO )  
 ) ss  
COUNTY OF BERNALILLO )

I, Gregory B. Molinar, Notary Public, certify that this is a true and correct copy of the original being held in trust by me, this date,

Signature  Date 10/10/2014

My commission expires: May 28, 2017





COUNTY OF BERNALILLO

**OFFER OF PERFORMANCE**

I, Gregory B. Molinar, Notary Public, certify that this is a true and correct copy of the original being held in trust by me, this date:

  
 My commission expires: May 28, 2017

10/10/2014  
 Date



LIANNE BATEMAN  
 4175 BRECKENRIDGE CT  
 ALPHARETTA, GA, 30005

Wednesday, June 11, 2014

ZWICKER and ASSOCIATES, P.C.  
 P.O. Box 9013  
 Andover, MA 01810

Certified Mail # 9507 1000 2755 4163 0000 49

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**OFFER OF PERFORMANCE  
 TO SETTLE PURPORTED OBLIGATION IN FULL  
 TO RESTORE – TO MAKE WHOLE**

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Thank you for your recent correspondence dated May 31<sup>st</sup>, 2014 (copy enclosed). I am sending this communication to call your attention to my position on this matter and the offer I am tendering as a result of my position and belief pertaining to the alleged debt of \$5,179.30 referenced in your letter. While LIANNE BATEMAN does not at this time believe that the claim by ZWICKER and ASSOCIATES, alleged AMERICAN EXPRESS ACCOUNT ENDING 31001, is of any force or effect, or of any truth supported by proper documentation, this is a 'good faith' effort, under the doctrine of 'clean hands', to offer to pay the claim in full if AMERICAN EXPRESS, by and through ZWICKER and ASSOCIATES can show reasonable and substantial basis for the claim.

This offer is a tender of settlement pursuant to Uniform Commercial Code which simply codified the known common law significance of an offer of this type.

**OFFER TO SETTLE THE ALLEGED DEBT**

This is a bona fide *offer of performance* to settle any alleged "debt". ZWICKER and ASSOCIATES may either accept this offer, reject this offer or object to the mode of this offer.

**CONDITIONS PRECEDENT**

This offer of performance is made dependant upon performance of conditions precedent, to which I am entitled by fundamental principles of law, Jurisprudence and 'clean hands' doctrine, namely the presentation of competent documentary evidence showing the factual grounds for the alleged debt claimed, to wit:

1. A copy of the ORIGINAL signed contract and other supporting documentation that gave rise to the alleged obligation AMERICAN EXPRESS is claiming owed;



2. A statement, under penalty of perjury:
  - a. That your client is the bona fide party in interest of the contract and will produce said ORIGINAL signed contract (#1 above) for my own and a judge's inspection should there be a trial to contest these matters;
  - b. The name and address of all persons, corporations, associations, legal firms or any other parties and entities having an interest in the collection or legal proceedings regarding the alleged debt;
  - c. That as a debt collector you have not purchased evidence of debt and are proceeding with this collection activity solely in the name of the original contracting party.
  - d. That you know and understand that certain clauses in a contract of adhesion are unenforceable unless the party to whom the contract is extended could have selectively rejected the clause;
  - e. And provide written verification from the stated creditor that you are authorized to act on their behalf in this debt collection action;
  - f. That AMERICAN EXPRESS has taken reasonable and prudent diligence to verify that the amount claimed owed is in fact a legitimate debt prior to instigating this action and making said claims, and that all relevant correspondence has been reviewed prior to initiating this claim.
3. Production of the account and general ledger statement showing the full accounting of the alleged obligation you are attempting to collect from me, signed and sworn by the person responsible for maintaining these records and having firsthand knowledge as to their accuracy and authenticity, and able to testify under oath to that effect;
4. Pursuant to UCC 8-501, Evidence of the ledgering of the original/any deposit(s) into a demand deposit account bearing my name;
5. Prima Facie evidence that the tenders made to AMERICAN EXPRESS (see attached history) were dishonored in accordance with applicable law and UCC;
6. Prima Facie evidence that AMERICAN EXPRESS does not owe LIANNE BATEMAN for the excess tenders in the amount of \$11742.59 which constitutes payments of \$16921.89 – balance of \$5,179.30 made to AMERICAN EXPRESS (see attached history).

In the absence of full disclosure of all the elements in numbers 1 through 6 above, it will be deemed that AMERICAN EXPRESS, by and through ZWICKER and ASSOCIATES cannot provide documents and answers, that there was never any actual 'debt' and that LIANNE BATEMAN is under no contractual obligation to AMERICAN EXPRESS, by and through ZWICKER and ASSOCIATES.

### **PRESUMPTION OF GOOD FAITH AND FAIR DEALING**

The law presumes that men act fairly and honestly, that their dealings are in good faith, without intent to cheat, wrong, defraud, hinder, delay or obfuscate. If any transaction called into question is capable of two constructions, one that is fair and honest, one that is dishonest and unfair, the law presumes the transaction to be fair and honest until proven otherwise.

LIANNE BATEMAN does not jump to the conclusion that AMERICAN EXPRESS, by and through ZWICKER and ASSOCIATES is manifestly doing something to assert a claim of liability



where none actually exists, or is attempting to fraudulently or by deceit, misinformation, concealment or in 'bad faith' or with 'unclean hands' assess against her or collect a debt from her that he does not, in fact or in law, owe.

Therefore I hereby and herewith make this 'good faith' offer of performance with express and explicit intent to extinguish any obligation alleged against me by AMERICAN EXPRESS, by and through ZWICKER and ASSOCIATES.

### **OBJECTION MUST BE IMMEDIATELY ASSERTED**

It is a well established principle of business and law that if AMERICAN EXPRESS, by and through ZWICKER and ASSOCIATES has any objection to this offer, the terms and conditions precedent thereto or the mode of the offer, tender or presentment, AMERICAN EXPRESS, by and through ZWICKER and ASSOCIATES has a 'good faith' duty to express any and all objections timely, within ten (10) days of the receipt by AMERICAN EXPRESS, by and through ZWICKER and ASSOCIATES of this certified communication and not to withhold, suppress, misrepresent or hide any such objections with the intent to 'surprise' me at a later date.

If no objection is timely made, AMERICAN EXPRESS, by and through ZWICKER and ASSOCIATES waives its right to any objections to this offer of performance at any time in the future.

### **INTENT TO EXTINGUISH THE OBLIGATION**

By these presents be it known that I am making this offer of performance with the express and explicit intent of extinguishing any alleged obligation I may have with AMERICAN EXPRESS, by and through ZWICKER and ASSOCIATES. It is well established by both *stare decisis* and *res judicata* that an obligation is extinguished by an offer of performance. See also Uniform Commercial Code 3-603

**Definition** – Extinguishment – The destruction or cancellation of a right or contract, of estate. The annihilation of a collateral thing or subject in the subject itself out of which it is derived. **Black's Law Dictionary, 4<sup>th</sup> edition, page 696.**

### **OFFER STOPS THE RUNNING OF INTEREST**

It should be noted that this offer of performance has the effect of stopping the running of interest and all other incidentals of any alleged obligation.

It should be possible in the normal course of business for AMERICAN EXPRESS, by and through ZWICKER and ASSOCIATES to immediately produce and display for my view, review and consideration the foundational documents, grounds, upon which it alleges, asserts, a claim regarding the above listed items if such evidence truly exists.

I expect responses within 10 business days of receipt of this letter to the above confirmations and that they be made in writing and sent via certified mail to the address listed below. Alternately, a letter from your firm that the matter has been satisfied and that any adverse credit reporting relating to this transaction has been expunged by the three major credit reporting agencies and any other agencies.

If no timely response is received I will deem such as a rejection by AMERICAN EXPRESS, by and through ZWICKER and ASSOCIATES of this bona fide 'good faith' offer of performance.



In the absence of a bona fide 'good faith' timely response, it will be deemed that there is, in fact and in law, no bona fide competent evidence upon which AMERICAN EXPRESS, by and through ZWICKER and ASSOCIATES has grounds to assert a claim against me.

In the absence of acceptance of, or objection to, this offer of performance by AMERICAN EXPRESS, by and through ZWICKER and ASSOCIATES any further attempt by AMERICAN EXPRESS, by and through ZWICKER and ASSOCIATES its employees, officers, officials, contractors, sub-contractors, agents or assigns to collect the alleged debt will obviously be nothing else than malicious harassment in 'bad faith' with 'unclean hands,' negligence, misfeasance, malfeasance, nonfeasance of office, with will and intent to defraud by AMERICAN EXPRESS, by and through ZWICKER and ASSOCIATES.

If there are any questions or more time is needed in which to have AMERICAN EXPRESS, by and through ZWICKER and ASSOCIATES respond regarding this tender, presentment, offer to perform, please put them in writing to me for my review and contemplation. I will be glad to answer any reasonable correspondence to solve unresolved issues to the benefit of all concerned.

As always, it is my intent to conclude this matter according to the truth and law.

Respectfully submitted,

BY:   
FOR: LIANNE BATEMAN

Enclosures: Copy of American Express account payment history as of February 19, 2014

## NOTICE OF FAULT, OPPORTUNITY TO CURE

LIANNE BATEMAN  
4175 BRECKENRIDGE CT  
ALPHARETTA, GA, 30005

Tuesday, June 24, 2014

ZWICKER & ASSOCIATES P.C.  
P.O. BOX 9013  
ANDOVER, MA, 01810

This is a NOTICE OF FAULT, OPPORTUNITY TO CURE upon the instrument entitled OFFER OF PERFORMANCE, dated June 11, 2014, presented to you via USPS certified mail, regarding an alleged "debt" of \$5,179.30, copy enclosed.

By the terms and conditions of the agreement in that presentation, you were under obligation to timely and in good faith protest and/or **honor our tender offer** by presentment within 10 days. A dishonor of the tender offer **settles** said alleged "debt".

Your failure to honor the tender offer **places you at fault**. This is our good faith offer to extend the time for you to make the required presentment by an additional ten (10) days from the date of receipt of this NOTICE OF FAULT AND OPPORTUNITY TO CURE.

Should you fail, refuse, or neglect to respond to this NOTICE OF FAULT OPPORTUNITY TO CURE, I will assume that you your letter dated May 31, 2014 (copy enclosed) was sent in error and this matter is settled and closed and that any and all negative averments on the credit report of LIANNE BATEMAN, with all credit reporting agencies, related to this matter have been or will be removed, if any exist.

OF THIS PRESENTMENT, TAKE DUE NOTICE AND HEED, AND GOVERN YOURSELF ACCORDINGLY.

Notice to Principal is Notice to Agent and Notice to Agent is Notice to Principal.

Respectfully submitted,

BY: Lianne Bateman Auth Rep  
FOR: LIANNE BATEMAN

STATE OF NEW MEXICO )  
COUNTY OF BERNALILLO )



I, Gregory B. Molinar, Notary Public, certify that this is a true and correct copy of the original being held in trust by me, this date,

Signature

Date

My commission expires: May 28, 2017

BLACK'S LAW DICTIONARY, 6<sup>TH</sup> EDITION

**Fault** – Negligence; an error or defect of judgment or of conduct; any deviation from prudence, duty, or rectitude; any shortcoming or neglect of care or performance resulting from inattention, incapacity, or perversity; a wrong tendency, course, or act; bad faith or mismanagement, neglect of duty. Under general liability principles, is a breach of duty imposed by law or contract. The term connotes an act to which blame, censure, impropriety, shortcoming or culpability attaches.

**Default** – By its derivation, a failure. An omission of that which ought to be done. Specifically, the omission or failure to perform a legal or contractual duty; to observe a promise or discharge an obligation; or to perform an agreement.





**2<sup>nd</sup> AND FINAL NOTICE OF FAULT  
AND OPPORTUNITY TO CURE**

LIANNE BATEMAN  
4175 BRECKENRIDGE CT  
ALPHARETTA, GA, 30005

Monday, July 28, 2014

ZWICKER & ASSOCIATES P.C.  
P.O. BOX 9013  
ANDOVER, MA, 01810

I, Gregory B. Molinar, Notary Public, certify that this is a true and correct copy of the original being held in trust by me, this date.

  
Signature Date 10/10/2014  
My commission expires: May 28, 2017

This is a 2<sup>nd</sup> AND FINAL NOTICE OF FAULT, OPPORTUNITY TO CURE upon the instrument entitled OFFER OF PERFORMANCE dated June 11, 2014, presented to you via USPS certified mail, regarding an alleged 'debt' of \$5,179.30, and the recent 1<sup>st</sup> NOTICE OF FAULT, OPPORTUNITY TO CURE Dated June 24, 2014.

By the terms and conditions of the agreement in that presentation, you were under obligation to timely and in good faith protest and/or **honor our tendered offer** by presentment within 10 days of receipt. A dishonor of the tendered offer **settles** said alleged 'debt.'

Your failure to honor the previously tendered offers **places you at fault in dishonor**. This is our second good faith offer to extend the time for you to make the required presentment by an additional ten (10) days.

You have ten (10) days from the receipt of this Notice to make your presentment at the address given on the instrument. Should you fail, refuse, or neglect to respond to this 2<sup>nd</sup> AND FINAL NOTICE OF FAULT, OPPORTUNITY TO CURE, we will issue a NOTICE OF DEFAULT.

**NOTICE**

The correspondence received from your office dated July, 15, 2014 does not comply with the requirements of FDCPA nor the OFFER OF PERFORMANCE. This is an attempt on your part to create an account stated and is REFUSED FOR CAUSE AND RETURNED WITHOUT DISHONOR for your failure to provide the necessary prima facie evidence of an alleged debt and injury. Please refer to the OFFER OF PERFORMANCE for the cause of the refusal.

OF THIS PRESENTMENT, TAKE DUE NOTICE AND HEED, AND GOVERN YOURSELF ACCORDINGLY.

**Notice to Agent is Notice to Principal and Notice to Principal is Notice to all Agents.**

Respectfully submitted,

BY:  Auth Rep  
FOR: LIANNE BATEMAN

**BLACK'S LAW DICTIONARY, 6<sup>TH</sup> EDITION**

**Fault** – Negligence; an error or defect of judgment or of conduct; any deviation from prudence, duty, or rectitude; any shortcoming, or neglect of care or performance resulting from inattention, incapacity, or perversity; a wrong tendency, course, or act; bad faith or mismanagement; neglect of duty. Under general liability principles, is a breach of duty imposed by law or contract. The term connotes an act to which blame, censure, impropriety, shortcoming or culpability attaches.

**Default** – By its derivation, a failure. An omission of that which ought to be done. Specifically, the omission or failure to perform a legal or contractual duty; to observe a promise or discharge an obligation; or to perform an agreement.

## NOTICE OF DEFAULT

LIANNE BATEMAN  
4175 BRECKENRIDGE CT  
ALPHARETTA, GA, 30005

Monday, August 18, 2014

ZWICKER & ASSOCIATES P.C.  
P.O. BOX 9013  
ANDOVER, MA, 01810

This is a NOTICE OF DEFAULT upon the instrument entitled OFFER OF PERFORMANCE dated June 11, 2014, regarding an alleged 'debt' of \$5,179.30, the NOTICE OF FAULT, OPPORTUNITY TO CURE dated June 24, 2014, and the 2<sup>nd</sup> AND FINAL NOTICE OF FAULT, OPPORTUNITY TO CURE dated July 28, 2014.

By the terms and conditions of the agreement in that presentation, you were under obligation to timely and in good faith protest and/or **honor our tender offer** by presentment within 10 days. A dishonor of the tender offer settles said alleged 'debt..'. This is our fourth and final effort to afford you a NOTICE TO CURE.

Your failure to honor the previous tender offers **places you at default**. This is our good faith offer to extend the time for you to make the required presentment by an additional five (5) days.

You have until 5 P.M. on the 5<sup>th</sup> (fifth) day after receipt of this NOTICE OF DEFAULT to make your presentment at the address given on the instrument. Should you fail, refuse, or neglect to respond to this NOTICE OF DEFAULT, that will be your admission of settlement of the alleged 'debt'. Any attempt to perpetuate the former alleged 'debt' will place you at risk for damages incurred and may subject the offending party(ies) personally to criminal sanctions arising from such a fraudulent act under 18 USC.

OF THIS PRESENTMENT, TAKE DUE NOTICE AND HEED, AND GOVERN YOURSELF ACCORDINGLY.

**Notice to Principal is Notice to Agent and Notice to Agent is Notice to Principal.**

Respectfully submitted,

BY:   
FOR: LIANNE BATEMAN

BLACK'S LAW DICTIONARY, 6<sup>TH</sup> EDITION  
**Default** – By its derivation, a failure. An omission of that which ought to be done. Specifically, the omission or failure to perform a legal or contractual duty; to observe a promise or discharge an obligation; or to perform an agreement.



NEW MEXICO  
COUNTY OF BERNALILLO

I, Gregory B. Molinar, Notary Public, certify that this is a true and correct copy of the original being held in trust by me, this date.

  
Signature

10/10/2014  
Date

My commission expires: May 28, 2017



SENDER: COMPLETE THIS SECTION

Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits.

Article Addressed to:

AMERICAN EXPRESS  
P.O. BOX 981531  
EL PASO, TX 79998-1531

COMPLETE THIS SECTION ON DELIVERY

A. Signature <b>X</b>		<input type="checkbox"/> Agent <input type="checkbox"/> Addressee
B. Received by (Printed Name)	C. Date of Delivery	
D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No <b>DATAMARK INC</b> <b>43 BUTTERFIELD CIRCLE</b> <b>EL PASO, TX 79906</b>		
3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.		
4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes		

Article Number  
(Transfer from service label)

7008 1300 0000 0715 1632

3 Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

UNITED STATES POSTAL SERVICE



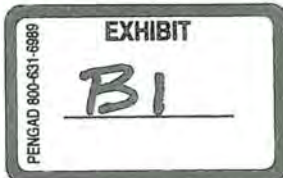
First-Class Mail  
Postage & Fees Paid  
USPS  
Permit No. G-10

CA - Rego Start Act

• Sender: Please print your name, address, and ZIP+4 in this box •

LIANNE BATEMAN  
C/O GREGORY B. MOLINAR  
NOTARY PUBLIC - ACCEPTOR  
P.O. BOX 35037  
ALBUQUERQUE, NM 87176-5037

Rec'd  
9-29-2014



STATE OF NEW MEXICO  
COUNTY OF BERNALILLO



I, Gregory B. Molinar, Notary Public, certify that this is a true and correct copy of the original being held in trust by me, this date.

Signature Date 10/10/2014

My commission expires: May 28, 2017

Page 1 of 1



THIS IS A MATTER OF PUBLIC RECORD

## Affidavit of Non-Response

STATE OF NEW MEXICO            )  
  ) ss  
COUNTY OF BERNALILLO        )

I, Gregory B. Molinar, Notary Public and Affiant, do depose and state the following:

- 1) LIANNE BATEMAN requested my assistance presenting various documents related to a certain CONDITIONAL ACCEPTANCE And REQUEST REGARDING STATEMENT OF ACCOUNT (with 6 exhibits attached) dated September 22, 2014.
- 2) On September 23, 2014, I prepared and mailed, via U.S.P.S. Certified Mail, a package of documents related to a certain CONDITIONAL ACCEPTANCE And REQUEST REGARDING STATEMENT OF ACCOUNT (with 6 exhibits attached) dated September 22, 2014. I sent this document package to the Respondent listed below requiring a response from the Respondent within fourteen (14) days of receipt of the said document package;

**RESPONDENT**

American Express

P.O. Box 981531

El Paso, TX 79998-1531


Certified Mail # 7008 1300 0000 0715 1632

Date Received by Respondent: September 25, 2014

Date U.S.P.S. Form 3811 was returned to Notary: September 29, 2014

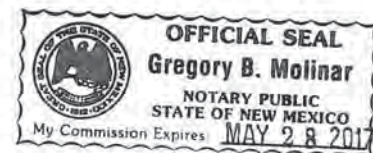
- 3) On September 29, 2014 I received the above listed U.S.P.S. Form 3811 verifying that the document package that I sent by Certified Mail on September 23, 2014, was received by the respondent on the date listed above.
- 4) As of today, more than fourteen (14) days having past, I have not received any proper response from the respondent in regard to the document package(s) sent on September 23, 2014.

Further, affiant sayeth naught.



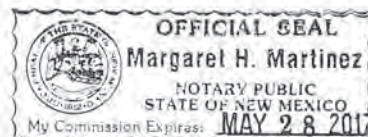
Gregory B. Molinar, Notary Public

My commission expires: May 28, 2017



On this day, October 9, 2014, before me, Margaret H. Martinez, a Notary Public, did personally appear Gregory B. Molinar, a Notary Public known to me to be the person whose name is subscribed above, and acknowledged that he executed the same for the purposes therein contained and did attest to the truth of this affidavit with his oath and autograph.

In witness hereof, I hereunto set my hand and official seal.



*Margaret H. Martinez*  
Notary Public  
My Commission Expires: May 28, 2017

